

**PART 5215**

**CONTRACTING BY NEGOTIATION**

**SUBPART 5215.2—SOLICITATION AND RECEIPT OF PROPOSALS AND INFORMATION**

**5215.204 Contract format.**

**5215.204-5 Part IV—Representations and instructions.**

(c) When a cost realism evaluation will be performed, Section M, Evaluation Factors for Award, shall include a notice that the proposed costs may be adjusted, for purposes of evaluation, based upon the results of the cost realism evaluation, except that if the contract will be firm fixed price, or fixed price with economic price adjustment, the notice is not required, and proposed prices will not be adjusted.

**5215.207 Handling proposals and information.**

(b) Each contracting office shall establish procedures to ensure compliance with FAR 15.207(b). Where facilities permit, competitive proposals and information should be held in a central locked storage for the purpose of identification until after the established date for their receipt.

**SUBPART 5215.3—SOURCE SELECTION**

**5215.305 (DFARS 215.305) Proposal evaluation.**

(a) Approval for use of contractor personnel as evaluators is addressed in FAR Part 37. Such contractor personnel shall not rank or recommend one proposal over another, assign any numerical scores or otherwise act in a decision making capacity. Whenever advisory contractor personnel are to be used, a written release shall be obtained from each offeror.

(1) *Cost or price evaluation.* Methods of evaluation which assign a point score to cost and combine it with point scores for other evaluation factors generally should not be used. Point scores can be helpful in summarizing subjective evaluation of technical and other factors, but are not needed in evaluating cost and tend to obscure the tradeoff between cost and other factors, rather than clarifying it. If point scoring of cost is utilized, an analysis should be performed which demonstrates that points assigned to the different evaluation factors are comparable in value to the Government. When a cost realism analysis is performed, the resulting realistic cost estimate shall be used in the evaluation of cost, except when using a firm-fixed-price or fixed-price with economic price adjustment type of contract.

(4) *Cost information.* The sharing of cost information with the technical evaluation team, and any limitations on the timing and extent of such sharing, should be addressed during the planning for the source selection. HCAs may establish

specific procedural requirements for approving, documenting and/or varying from the plan.

## **SUBPART 5215.4—CONTRACT PRICING**

### **5215.404 Proposal analysis.**

#### **5215.404-1 (DFARS 215.404-1) Proposal analysis techniques.**

(d) *Cost realism analysis.* A price analysis approach where there is adequate price history may also be a suitable and efficient means to evaluate cost realism. The amount of data required will be dependent upon the complexity of the procurement and the data already available to the contracting officer (e.g. information on recent Forward Price Rate Agreements (FPRAs)).

### **5215.406 (DFARS 215.406) Documentation.**

#### **5215.406(90) Business clearance.**

(a) Generally, “pre-negotiation” and “post-negotiation” business clearances are required for each negotiated contract action. Business clearance memoranda (BCM) document the basis for approval of the action, and the basis for determination that the negotiated prices are fair and reasonable.

(b) For competitive acquisitions, the pre-BCM presents a chronology of the acquisition up to the determination of competitive range, and provides the basis for the competitive range decision. The post-BCM continues the chronology to contract award, and provides the basis for the award decision. If award is made without discussions, on the basis of original offers, the pre- and post-BCM may be combined.

(c) For contracts and modifications requiring price negotiations, the pre-BCM demonstrates to the approving official that the Government is ready to enter into negotiations. It addresses salient legal and regulatory requirements, and sets forth the Government’s negotiation objectives. It generally includes a discussion of the bases for the contractor’s proposal and the Government objective, DCAA and other Government pricing recommendations and the analysis done and conclusions reached by the negotiating team. The post-BCM describes the results of negotiations, and documents the basis for determining the negotiated price is fair and reasonable. Using the objective in the pre-BCM as a base, it addresses the reasons for any difference between the initial objective and the final negotiated amount. The pre- and -post BCM together constitute the documentation required by FAR 15.406-3 and DFARS 215.406-3, and must provide all the information required therein. In particular, the BCMs must document the use made of field pricing assistance, and must describe the extent of Government reliance on the contractor’s cost or pricing data, if obtained, in sufficient detail to provide a basis for Government recovery in the event any of the data proves inaccurate, incomplete or not current.

(DRAFT)  
**NAVY ACQUISITION PROCEDURES SUPPLEMENT CHANGE #97-XX**

---

(DRAFT)

**SUBPART 5215.5—PREAWARD, AWARD AND POSTAWARD NOTIFICATIONS,  
PROTESTS, AND MISTAKES**

**5215.505 Preaward debriefing of offerors.**

(e)(1) If the evaluation included a cost realism analysis, include information about the results of the analysis as it relates to the offeror being debriefed and its effect on the offeror's evaluated cost.

**5215.506 Postaward debriefing of offerors.**

(d)(2) If the evaluation included a cost realism analysis, include information about the results of the analysis as it relates to the offeror being debriefed and its effect on the offeror's evaluated cost.